

WHICH WAY TO THE BEACH?

Massachusetts wants you on the beach, not in court

All around the United States, the demand for public access to the country's beaches is increasing. People are moving to the coast in record numbers and states are struggling to keep up with the migration. These pages feature a look at what two states are doing to address specific needs, as well as a look back at one state's history of public access.

What do you call a pack of lawyers working without pay for the public good?

A pipe dream? No, that's not the punchline. In fact, in this case, it's not even a joke. The answer is a new program in Massachusetts designed to help resolve contested public access cases more efficiently than the current court-based process.

The Coastal Access Legal and Mediation Service is a budding program that will offer free legal services and conflict mediation for appropriate access cases. The program lessens the contentious nature of a civil suit by offering a mediation alternative, and the free legal services can help legitimate causes that otherwise might not get off the ground. Ultimately, the

goal is increasing public access to the Commonwealth's beaches.

The service is a combination of "two fledgling programs," said Geordie Vining, a coastal access planner with the Massachusetts Department of Environmental Management.

The idea began with the Coastal Zone Management Program, which had begun something called the Public Access Legal Service to act as a clearinghouse to provide *pro bono* lawyers to work on public access initiatives.

Meanwhile, the Department of Environmental Management was planning a clearinghouse to provide mediators.

"It was clear to everybody they should be the same program," Vining said.

The two programs were combined. The Coastal Access Legal and Mediation Service is a joint effort of the Department of Environmental Management, the Executive Office of Environmental Affairs, the Office of Coastal Zone Management, and the Office of the Attorney General.

Although the finer points – such as staffing and funding – are still being decided, the program should begin handling cases soon.

Mediation is a voluntary, confidential process in which people from opposing sides agree to work together with a neutral mediator to find solutions to disputes. The process can be an alternative to court, or a way to a solution if legal processes fail. Mediation does not reduce anyone's legal rights and in Massachusetts, documents prepared by a qualified mediator or that are contained in a mediator's file are confidential.

Here's how the program works: It starts with a dispute involving public access. This dispute could be a property owners association that believes a developer is encroaching into the public domain along a stretch of beach. It could be a beach town facing a legal challenge with a developer who wants to close a section of the beach. The interested party fills out an application, asking for either legal aid or the appointment of a mediator, or both.

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Michigan offers a smoother path for the disabled

The passage of the Americans with Disabilities Act (ADA) in 1990 focused attention on accessibility standards in every corner of the nation, and for the first time forced the private sector to swing wide its doors, hallways, and bathrooms for everyone.

The new requirements included the directive that state parks, buildings, and beaches also be accessible.

Michigan had its own accessibility regulations before the passage of the ADA, and continues to be progressive in this area. A test program in the Great Lake state has proven quite successful.

Using 6-foot by 10-foot sections of durable vinyl decking, two Michigan beaches became more accessible than ever before, and a third will soon join the program.

Marketed by an Indiana company under the brand name Brock Dock, the system uses vinyl sections fitted together to form long-lasting, portable, and cost-effective walkways. At Holland Beach State Park and Muskegon State Park in Michigan, the Brock Dock system has been used and the results have been undeniably positive, said Vicki Anthes, a planner and ADA coordinator with Michigan's Parks and Recreation Division of the Department of Natural Resources.

"People with disabilities have raved about it," Anthes said. "It gets them to the high water edge."

Port Crescent State Park will have the system installed this spring.

The system has several advantages, and not only for the disabled, Anthes said. The vinyl stays cool, getting only a few degrees warmer than the outside air, even under the glaring summer sun. Because it is smooth, it is more friendly for wheelchairs, strollers, and canes. There are no nails to stick up and snag bare feet; and rather than exit onto thick, soft sand, the Michigan walkways extend to the waterline, making it easier for people with disabilities to enjoy the beach.

The decking is easily removed and in Michigan is taken down before the harsh winter sets in, reducing wear and tear. Ocean states could conceivably remove the walkovers before approaching hurricanes or tsunamis, saving expensive replacement or repair costs. A vinyl ramp costs more than a wooden one (about \$20,000 for the vinyl), but should last longer.

The new Brock Dock structure at Muskegon State Park has already made a believer of one Michigan resident. Paul Novoselick, a columnist with the *Muskegon Chronicle* newspaper, has multiple sclerosis (MS), which has slowly taken away the use of his legs. A North Muskegon resident for 10 years, Novoselick and his wife often visited the beach in Paul's more ambulatory days; but since MS relegated him more

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Oregon's beaches belong to the public

While most coastal states struggle over public beach access, a few, like Oregon, have the luxury of building on the legacy of some farsighted leaders and a determined public.

Public access to Oregon's beaches has been a concern and a driving force on public attitudes about coastal protection, said Robert Bailey, Oregon's Ocean Program Administrator. After a quarter century of work in Oregon's coastal arena, Bailey has become fascinated with the historical roots of the state's tradition of public access and coastal management.

Bailey notes that, as always, geography set the stage, and the twin themes were coastal travel and recreation. Rugged, densely forested mountains, cut by innumerable streams, made travel difficult in the early settlement days on the Oregon coast, and estuaries and rivers became water highways between the coast and interior valleys. Travel north or south, however, was confined to certain trails on marine terraces, or, more frequently, on the sandy ocean beaches that lay at the foot of steep coastal cliffs and along spits that formed estuaries.

In the late 1800s, several long stretches of certain beaches were designated by counties as public roads. Old photographs show horse-drawn stages skirting the incoming surf, and beach travel continued well into the age of the automobile. In fact, Bailey notes, cars used the beach in some stretches of the south coast right up to completion of the coastal (non-water) highway in 1932.

By 1890, beaches were popular recreational destinations. Railroads, punched through the mountains to the

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The Coastal Access Legal and Mediation Service will try to make scenes like this one more common on Massachusetts' beaches. Photo courtesy Massachusetts Department of Environmental Management.